

## REMARKS

The present application was filed on January 25, 2001 with claims 1-19. Claims 1 and 7 were canceled and claims 2-6, 8-11 and 13-19 were amended in previous responses. Claims 2-6 and 8-19 are currently pending in the application. Claims 16-19 are currently the independent claims.

In the Office Action, claims 2-5, 8-12 and 15-19 are rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 5,568,541 (hereinafter "Greene") in view of U.S. Patent No. 6,240,402 (hereinafter "Lynch-Aird") in further view of U.S. Patent No. 5,958,016 (hereinafter "Chang"). In addition, claim 6 is rejected under 35 U.S.C. §103(a) as being unpatentable over Greene in view of Lynch-Aird in further view of Chang still in further view of U.S. Patent No. 6,595,424 (hereinafter "Harrison"). Finally, claims 13 and 14 are rejected under 35 U.S.C. §103(a) as being unpatentable over Greene in view of Lynch-Aird in further view of Chang still in further view of Harrison still in further view of U.S. Patent No. 5,148,474 (hereinafter "Haralambopoulos").

Applicants respectfully traverse the §103(a) rejections of all the pending claims. Applicants request that the claims be reconsidered in light of the following remarks.

Independent claim 16 sets forth:

A method for controlling access of call originators to user terminals in a communication system, the method comprising the steps of:

storing for a given user terminal of the system a set of user-specified access cost information to be applied to one or more incoming calls directed to the user terminal; and

determining an amount to charge an originator of a given incoming call directed to the user terminal based at least in part on an access cost for the given incoming call as determined from the user-specified access cost information;

wherein the user-specified access cost information is at least in part entered by the user at a web site associated with a service provider that implements the storing and determining steps.

Importantly, it is the user (i.e., the entity receiving the incoming call) in the claimed method that specifies the access cost information rather than the service provider, network operator or other entity. Advantageously, embodiments in accordance with limitations of claim 16 reduce the likelihood that a given consumer or other user will receive unwanted calls, while also providing information that can be used by telemarketers and other call originators to better target their calls (Specification, p. 3, lines 19-21).

A valid §103(a) rejection requires that the reference or reference combination teach or suggest all the claim limitations. Manual of Patent Examining Procedure, Eighth Edition, August 2001, (MPEP) §2143. In formulating the §103(a) rejection of claim 16, the Examiner argues that the particular limitation of claim 16 that sets forth that the claimed access cost information be user-specified is disclosed by Lynch-Aird at col. 5, lines 27-33; FIG. 4; and col. 6, lines 10-14 (Office Action, p. 3). Applicants respectfully disagree. Lynch-Aird at col. 5, lines 27-33 states:

Referring to FIG. 4 charging information can be maintained by the network operator in a suitable charging table in which an entry is kept against each allocated recipient identifier (*sic*) indicating the charging scheme associated with the recipient identifier. For example a first unique recipient identifier  $RID_1$  is allocated to recipient  $R_A$  and designates that the originator of the call be charged.

Applicants submit that there are at least two fundamental reasons why this cited portion of Lynch-Aird does not contribute to a valid §103(a) rejection of claim 16. Firstly, the above-quoted text fails entirely to specify that access cost information be user-specified. Instead, it apparently sets forth that the amount that an originator will pay for a given call may be made to depend on the identity of the recipient. Secondly, the above-quoted portion of Lynch-Aird actually teaches away from some of the limitations of claim 16. “A reference may be said to teach away when a person of ordinary skill, upon reading the reference, would be discouraged from following the path set out in the reference, or would be led in a direction divergent from the path that was taken by the applicant.” In re Gurley, 27 F.3d 551, 553, 31 USPQ2d 1130 (Fed. Cir. 1994). In the above-cited text, Lynch-Aird explicitly states that the charging information is “maintained by the network operator in a suitable charging table” (*emphasis added*). Therefore, one skilled in the art, upon reading this reference, would be discouraged from having the access cost information be specified by the user in accordance with the limitations of claim 16.

Moreover, Lynch-Aird at col. 6, lines 10-14 states that, with respect to charges for a given telephone call, “[t]he charges are determined on the basis of any known system, for example a fixed charge per packet, the charge based on the duration of the packet, a charge based on the distance of the call, the time of day, the packet type and so forth.” Again, this statement fails to teach or suggest that the access costs information is user-specified. Rather, Lynch-Aird merely describes some

different criteria that a network operator might use in determining the amount to charge a call originator.

The remainder of the references in the proposed reference combination, namely Greene and Chang, fail to correct these fundamental deficiencies in Lynch-Aird with respect to the limitations of claim 16. As a result, Applicants respectfully submit that the Greene/Lynch-Aird/Chang reference combination fails to teach or suggest all the limitations of claim 16, and that the §103(a) rejection should be withdrawn.

In addition, with respect to claim 16, Applicants note that the Examiner states on p. 3 of the Office Action:

Therefore, it would have obvious (*sic*) to one of ordinary skill in the art at the time the invention was made to modify the invention of Greene to include the feature of Lynch-Aird and Chang et al. in order to provide recipient identifiers to indicate that the corresponding customer received the call and also to determine which party pays (Lynch-Aird; col. 6, lines 17-35).

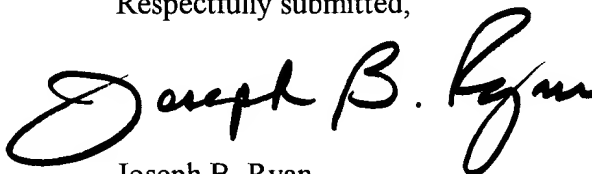
For a valid §103(a) rejection, “there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings.” MPEP §2143. Applicants respectfully submit that these requirements have not been met with respect to claim 16. Instead, the Examiner in the above-quoted text merely cites a seemingly arbitrary portion of Lynch-Aird that fails to describe how one skilled in the art would be motivated to combine relevant aspects of the three references. For example, the Examiner argues that the particular limitation of claim 16 wherein “the user-specified cost information is at least in part entered by the user at a web site” is allegedly taught or suggested by Chang (Office Action, p. 3), but then provides absolutely not motivation to combine this aspect of Chang with aspects of the other references (i.e., Greene and Lynch-Aird). The above quoted language is, therefore, entirely insufficient to support an obviousness rejection.

Like claim 16, independent claims 17-19 each set forth that the access cost information described therein is user-specified. Therefore, Applicants submit that these independent claims are also in condition for allowance for at least the reasons set forth above with respect to claim 16.

Moreover, dependent claims 2-6 and 8-15 are also believed to be allowable for at least the same reasons as their base claim, independent claim 16.

In view of the above, the present application is believed to be in condition for allowance.

Respectfully submitted,

A handwritten signature in black ink, reading "Joseph B. Ryan". The signature is fluid and cursive, with the first name "Joseph" being the most prominent.

Date: November 11, 2005

Joseph B. Ryan  
Attorney for Applicant(s)  
Reg. No. 37,922  
Ryan, Mason & Lewis, LLP  
90 Forest Avenue  
Locust Valley, NY 11560  
(516) 759-7517